



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 3, 2018

The Honorable Ben Ray Luján
U.S. House of Representatives
2231 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Luján:

Thank you for your letter regarding Commission efforts to modernize our wireless infrastructure regulations. Our wireless infrastructure rules have been a poor fit for the 5G networks of the future, and our efforts to unleash spectrum for consumer use will be moot if carriers can't deploy the physical infrastructure needed to bring next-generation services to the American people.

The Commission's recent action on this front is a giant leap forward in updating our wireless infrastructure rules. The item clarifies that small cells are materially different from large towers, so they shouldn't face identical regulatory review under the National Historic Preservation Act and National Environmental Policy Act. The Commission also streamlined the process for Tribal review notifications through the Tower Construction Notification System.

In developing our new rules, the Commission engaged extensively with Tribal Nations, inter-Tribal organizations, and state and local historic preservation officers. Although none of the changes we made apply on Tribal lands, because some of the actions implicated Tribal interests, the Commission last year directed the Office of Native Affairs and Policy, in coordination with the Wireless Telecommunications Bureau, to conduct government-to-government consultations. Accordingly, Commission staff aimed to be responsive to a potentially large number of consultation requests from various levels of Tribal governments; to assist Tribal Nations, inter-Tribal organizations, and other Tribally-related entities in getting salient comments and reply comments into the record; and to fully integrate and coordinate the efforts of staff in supporting Commissioners and their advisors' direct participation in government-to-government meetings.

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These consultations were in addition to consultations at FCC headquarters and numerous, widely-attended conference calls. One of the in-person consultations in which I personally participated was attended by over 70 representatives of more than 50 Tribal Nations and organizations.

These consultations improved our work product. For example, Tribes complained that wireless companies sometimes give them insufficient information about proposed tower deployments that could potentially affect historic properties. Our new rules therefore require infrastructure siting applicants to give potentially affected Tribal Nations and Native Hawaiian Organizations a standardized set of information for undertakings going forward. Providing this information at the initial notification stage will enable Tribes to more efficiently determine whether projects may affect historic properties of religious or cultural significance.

But we also heard from numerous parties seeking to deploy infrastructure about abuse of the review process, including some Tribal Nations charging upfront fees even before responding. For instance, one company recently paid over \$12,000 to install one small cell outside a steel factory in Indiana, even though all ultimately agreed there was no effect on historic property. Another company paid over \$15,000 to install a single small cell in downtown Milwaukee. Yet another company stated that 26% of small-cell deployment costs, including for equipment, came from historic preservation and environmental review alone. Extrapolating that out to the thousands of small cells needed for next-generation services, it becomes clear: You can stick with the regulatory status quo or you can have 5G. You cannot have both.

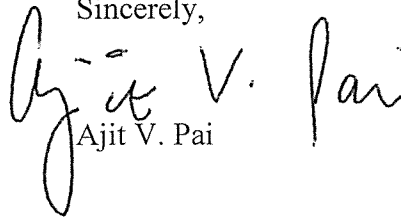
To address that issue, the FCC went back to following the law. Aside from deterring deployment, upfront fees contradict Advisory Council on Historic Preservation guidance.

Because these fees are inconsistent with both law and consumer welfare, the Commission decided not to coerce private entities into paying them going forward.

Ultimately, these rule changes reflect a balanced approach that promotes the public interest. On one hand, they respect the government-to-government relationship we have with Tribes. On the other, they help the United States lead the world in 5G, enable carriers to deliver better, faster, and cheaper mobile broadband for American consumers, and extend digital opportunity to more of our citizens, including the many Tribal members that live outside of Tribal lands.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 3, 2018

The Honorable Maria Cantwell
United States Senate
511 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Cantwell:

Thank you for your letter regarding Commission efforts to modernize our wireless infrastructure regulations. Our wireless infrastructure rules have been a poor fit for the 5G networks of the future, and our efforts to unleash spectrum for consumer use will be moot if carriers can't deploy the physical infrastructure needed to bring next-generation services to the American people.

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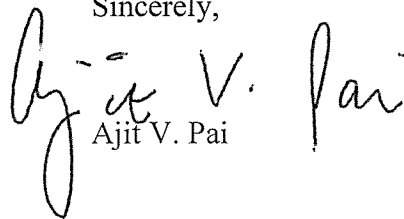
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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

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Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
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August 3, 2018

The Honorable Tina Smith
United States Senate
309 Hart Senate Office Building
Washington, D.C. 20510

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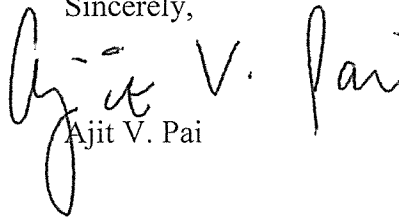
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United States Senate
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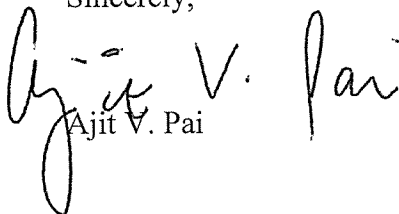
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